91 1056

No.

SUPREME COURT, U.S.
FILED
NOV 15 1991
OFFICE OF THE CLERK

IN THE

SUPREME COURT

OF THE

UNITED STATES

October Term, 1991

N.L. Neilson

Petitioner,

vs.

People of California

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT APPELLATE DEPARTMENT STATE OF CALIFORNIA, COUNTY OF KERN

N.L. Neilson
P.O. Box 715
Mojave, California
93502
Petitioner pro se

QUESTIONS PRESENTED

Whether the Kern County ordinances are unconstitutitionally vague or overbroad and invalid as being repugnant to the Constitution and laws of the United States.

Whether the rights of Due Process under the Fifth and Fourteenth Amendments to the United States Constitution were violated.

Whether a citizen can be deprived of liberty and put in jail on a charge a Jury has found NOT GUILTY.

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The opinion of the Superior Court Appellate Department Case NO. A-1379 dated July 31, 1991:

> "The judgment is affirmed and the case remanded."

The East Kern Mojave Municipal Court Case No. MMO12539 has one charge of 17.28.040 and one charge of 19.14.020 as acquitted and two charges of CO17.44.060 and two charges of CO19.14.020 as guilty dated January 10, 1991.

JURISDICTION

The judgment of the Superior Court Appellate Department was entered on July 31, 1991, Petitioner received the opinion on August 13, 1991, the envelope has a postal meter date of August 12, 1991. A Petition for Rehearing and Certification to Court of Appeal was filed August 14, 1991. The Superior Court Appellate Department did not rule on the petition so the decision of that court was final as of August 30, 1991. This exhausted state remedies. The jurisdiction of this court is invoked under 28 U.S.C. Sections 1257(a) and 1651(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The provisions of the United States Constitution involved in this case are the Due Process Clauses of the Fifth and Fourteenth Amendments, the Equal Protection Clause of the Fourteenth Amendment, and the Excessive Bail and Cruel and Unusual Punishment Clauses of the Eighth Amendment, as made applicable to the states through the Fourteenth Amendment.

> "No State shall make or inforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Const. Amend. XIV.

> "- - nor be deprived of life, liberty, or property, without due process of law;- -"

U.S. Const. Amend. V.

> "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

U.S. Const. Amend. VIII.

STATEMENT

This case is about the Building Inspection Department and a Farmer (Petitioner).

The "law" involved is the Kern County Ordinance, the scheme of which is to have them unconstitutionally vague or overbroad.

> C019.14.020 PERMITTED USES
> The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through 19.08.080 of this title are permitted in the A-1 district:

This requires another Section or ordinance to define what is permitted. The Section or ordinance that defines what is permitted is not allowed as a defense and a citizen can be found guilty of something that is legally permitted.

For each of the items that is on the Farm there is an ordinance which specifically allows or exempts these items. These items are travel trailers, cargo containers and an airplane. The ordinances that allows or exempts these items were not allowed at the trial.

Petitioner has dealt with the Building and Planning Dept. for over 20 years.

Building Bulletin #15, November 1, 1984 and changed to #8 December 6, 1985 regarding cargo containers was written at Petitioner's request. "- -including cargo containers if incidental and accessory to a permitted use." in C019.12.020 F and "- -ridging, leveling- -" for agriculture in C017.28.040 (currently C017.08.200) was written into the ordinance at Petitioner's request.

"Storage of- -motor vehicles, trailers, airplanes, boats- -" C019.08.220, were allready in the ordinance. The exemption for the travel trailer for temporary occupancy was in their "Guide" and also the California Constitution Article I Section 1 "- -and protecting property- -".

On March 22, 1989 Petitioner checked with the Building Department in Bakersfield regarding planned move to Farm later that year, everything was OK, got copies of the current ordinances that were amended.

Petitioner finished moving onto Farm in December of 1989.

On January 11, 1990 a Building Inspector, Stuart Bone, from the Mojave office came to Farm. On January 18, 1990 Petitioner went to the Building Dept. in Bakersfield. There were NO PERMITS required for grading on the Farm and the ordinances which ALLOWED or EXEMPTED the items on the Farm were still valid and required no permits.

Kern County has minimal separation of the branches of government; legislative, administrative, and judicial. For the June 1990 elections Petitioner campaigned against the incumbent Sheriff John Smith, it appeared a few Sheriff Officers were acting as personal agents for some of the Board of Supervisors. Carl Sparks was elected as Sheriff and changed the commanders of the Sheriff sub-stations in ALL of Kern County. Petitioner has had no problem with any law inforcement agency anywhere other than a few traffic tickets.

Petitioner put forth the idea that the head of the Building and Planning Department should be an elected position and responsible to the voters rather than appointed by the Board of Supervisors and acting at their pleasure.

The political power structure is such in Kern County that there is no elected position between the Board of Supervisors and the Building Department so it can be it's direct enforcememt arm for political or other reasons.

Petitioner made clear his intent to run for Supervisor of the Second District in the next election.

On September 17, 1990 (U.S. Const. Day), 3 months after the June elections, the District Supervisor of the Building Inspection Depart. for the Mojave area Dudley Dunham in command, along with Building Inspector William Thresher and three Sheriff Officers as back-ups came to Petitioner's Farm, no warrant, untied orange

cord across entrance to Farm and entered, spreading out in different directions.

Building Inspector Thresher confronted Petitioner, made accusations of illegal grading, drugs, and others. Petitioner showed Bldg. Insp. Thresher documents regarding ownership to Farm property, the CURRENT ordinances on grading (C017.08.200) cargo containers (C019.12.020) and others. Bldg. Insp. Thresher became very abusive and said: "You're not charged with those ordinances.", "You're involved with drugs, nobody farms out here." and "We're going to put you in jail." Petitioner called a Sheriff Officer over to prevent Bldg. Insp. Thresher from getting further out of line. Petitioner appreciated the Sheriff Officers' presence.

Petitioner was given Notice to Appear No. 0904 which had three violations:

K.C. CODE 17.28
K.C. CODE 19.02.060
CAL.STATE CODE-Title 25

and no explanation of the charges on it.

After the arraignment on October 17, 1990 the court docket had:

1. CO 17.28
2. CO 19.02.060
3. CO 17.44.060
4. CO 17.28.040
5. CO 17.44.060
6. CO 19.16020

There were pretrials on November 9 and 29, 1990, and a jury trial was set for December 18, 1990, the morning of which Petitioner was given a copy of the formal complaint prepared by the DDA's Office and dated December 17, 1990 which had:

1. CO 17.44.060
2. CO 17.44.060
3. CO 17.28.040
4. CO 19.14.020
5. CO 19.14.020
6. CO 19.14.020

All of the previous documents filed with the court had been prepared by Bldg. Insp. Dunham. A new trial date was set for January 8, 1991.

At the trial Bldg. Insp. Dunham's "interpretation" of the law: "You were not charged with the other ordinances so they don't apply." took precedence.

No ordinance other than those charged against Petitioner was allowed and the "interpretation" was even carried into the DDA's brief on appeal

> "- -Section 19.08.220 was never a charge faced by defendant and was not a trial issue"

Due Process was not a trial issue either.

This was the newly elected judge's first jury trial after 20 years as a DDA, he did not have the ordinance book or did not aprise himself of same. The DDA had only the ordinances supplied by Bldg. Insp. Dunham, some of those more than a year out of date. The law library at the jail did not have the ordinances either. Petitioner pointed out in oral argument before the Appel. Dept. that if there was anyone on Petitioner's side at the trial it was opposing counsel, the real opposition came from the judge.

The exemption for the charge CO17.28 (illegal grading) was in sub-section 10. of the ordinance charged, was allowed as a defense by the DDA, and Petitioner was found NOT GUILTY by the Jury.

The jail papers have CHARGES CO 17.28*01, and BAIL ???. This is a misdemeanor on appeal where bail is a matter of right but ??? for an amount is a denial of bail. For the charge CO17.28 the jury found not guilty.

Bldg. Insp. Dunham has "insinuated drugs" before and after the trial until he was notified Petitioner had contacted the FBI on this case. "You use the airplane for smuggling drugs." Petitioner purchased the airplane for the primary purpose of working on it to get his A&P license (airframe and powerplant mechanic). The A&P Inspector that was supervising and inspecting this work is a retired Air Force Officer and Pilot, he flew the plane in with a Ferry Permit Petitioner had obtained from the FAA

office in Van Nuys, Calif. The Farm property is under Edwards Air Force Base MOA Control Zone. Clearance was obtained from Edwards Tower before entering the MOA. The plane has not moved one inch under it's own power since then, the gravel on the property would nick the prop. Petitioner obtained his pilots license in 1970, is checked out in that plane but has never flown it without the Inspector.

As for the Jaguar XKE, "That's an expensive car, you must have bought that with drug money." Petitioner bought the Jag XKE more than 20 years ago from his brother in Utah who is now Comptroller in charge of the LDS (Mormon) Church's Publishing Division in Salt Lake City, Utah.

Petitioner has worked at several companys on Defense Projects for the U.S. Govt. such as the Apache Helicopter, Shuttle, Satelites, Missiles, B-1, and others, there has never been a problem with a security clearance.

Because of the accident at L.A.X. in early February of 1991 Petitioner sent some documents to the Patent Office, (Disclosure Document No. 275068) regarding an Aircraft Collision Avoidance System. Petitioner sent this to President Bush who asked M. T. Pozesky at the FAA to respond. Petitioner sent a second system to the Pat. Off. (D.D. No. 291645) which is independant of radar. TCAS has problems. These documents have the location of Farm, N35-02.3 W117-58.2. The Farm is under the EAFB low altitude testing area, sometimes if Petitioner waves the Pilots will tip their wings. For the Bldg. Insp. to say Petitioner is trying to hide something is on the far side of the absurd line.

There were no charges or accusations regarding drugs at the trial, thats just defamation of character for political reasons, if there are any doubts the FBI can be called.

One of the FBI Agents Petitioner talked to suggested filing a complaint in Federal Court, which was done on August 28, 1991, United States District Court, Eastern Dist. of California, Case No. CV-F-91 488 REC.

Petitioner indicated to the Bldg. Insp. and the DDA that there catch all ordinance CO19.14.040 PROHIBITED USES, was unconstitutional before arraignment, hence Petitioner was charged, tried, and convicted of CO19.14.020 PERMITTED USES. The jury instructions prepared by the DDA, the rough draft may have been prepared by the Bldg. Insp., and read by the judge verbatim tried to compensate for this. "Defendant is charged with - -section 17.14.20. - - a violation of section 19.14.010. - -". The DDA indicated to the judge 17.14.20 should be 19.14.020 and Petitioner indicated 19.14.010 was a general heading and should be 19.14.040. This was given to the jury again with "- -19.14.020 - -19.14.020- -." still no 19.14.040.

The judge did not include in the instructions for trailers 17.44.060 B, C, 19.08.220, Conflict of Laws, for cargo containers 19.12.020 (F), and for the airplane 19.08.220.

The constitutionallity of the ordinances was the main issue presented to the Appel. Dept. but Due Process and others were included.

But from the Appel. Dept., "- -we are not inclined to labor through his arguments, the ordinances and the evidence in this opinion."

This case is more political than legal.

In 1787 there were 39 men who put there signature on a document that specified the separation of the branches of government, the Constitution of the United States.

REASONS FOR GRANTING THE WRIT

I. The Kern Co. ordinances regarding zoning (criminal) charged against Petitioner are unconstitutionally vague and overbroad. Due Process was not followed.

The "void for vagueness" doctrine states that a criminal statute violates due process of law where its statement of the standard of guilt is so indefinite that it fails to give adequate notice of the conduct that is prohibited.

In the seminal case of Connally v. General Construction Co. (1926) 269 U.S. 385,391, (46 S.Ct. 126,127, 70 L.Ed. 322,328), this Court described the vagueness problem in the following terms:

> "That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and

differ as to its application violates the first essential of due process of law."

This Court has continued to follow the standard announced in Connally, and has explained its rationale further in Grayned v. City of Rockford (1972) 408 U.S. 104,108-109, (33 L.Ed.2d 222,227-228, 92 S.Ct. 2294):

> "First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give a person of ordinary intelligence a reasonable oppurtunity to know what is prohibited, so that he may act accordingly ....
>
> Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them.
>
> A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for evaluation on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application."

This principle is derived from the Fifth and Fourteenth Amendments of the United States Constitution, see Parker v. Levy (1974) 417 U.S. 733 (41 L.Ed.2d 439, 94 L.Ed.2d 439, 94 S.Ct. 2547)

This applies to local ordinances also.

Vagueness and overbreadth have traditionally been viewed as "logically related and similar doctrines.", from Kolender v. Lawson (1983) 461 U.S. 352,359, (75 L.Ed.2d 903,910, 103 S.Ct. 1855).

The two doctrines diverge in that a statute or ordinance that is clear and precise may nevertheless be unconstitutionally "over broad" if "in its reach it prohibits constitutionally protected conduct." (Grayned, supra, 408 U.S. at 114).

> An enactment is over broad if it "casts a net" so large as to catch all possible offenders and in the process catches many innocent citizens as well.

See (Parachristou v. City of Jacksonville (1972) 405 U.S. 156,165, (31 L.Ed.2d 110,117, 92 S.Ct. 839).

For the charge C017.44.060, (travel trailer, temporary occupancy):

> C017.44.060 Unauthorized use.
> C. - - Exception: - -recreational vehicles may be granted temporary approval by the building official for construction purposes when located on construction sites on which permits to construct have been issued. - - -

This is verbal approval for the "recreational vehicle" this does not require a permit. The "permits to construct" are permit(s) for the construction. The "construction" for the Farm is grading or leveling, which does not require a permit, see C017.28:

> C017.28.040 Permits required
> B. Exempted Work
> 10. Accepted agricultural activities, including - - ridging, leveling, - -.

The purpose for the temporary occupancy is for protecting the property on the construction site, in this case the Farm. Petitioner got "verbal" approval for the trailer for "temporary occupancy" from the Bldg. Insp. Dept. and for the clause "permits to construct" was given the "Guide"

which has:

"GUIDE"
(10) "- - all required zoning approval and permits for the main use- -. Recreational vehicles and travel trailers may also be utilized for temporary housing with no utilities tied to the unit, but no additional permit will be required by Building Inspection. - -."

The Calif. Const. Art. I Sect. 1

"- - and protecting property - -."

This was never questioned except by Bldg Insp. Dunham after "politics" became an issue, his "interpretation" violates the Equal Protection Clause of the Fourteenth Amendment of the U.S. Const.. A citizen that is doing construction that required and has a permit can protect his property but a citizen doing construction that does not require a permit can not protect his property.

This Court's unanimous decision regarding Equal Protection in Allegheny Pittsburg Coal Co. v County Com. of Webster County (1989,US) 102 L.Ed2d 688, 109 S.Ct. 633, as compared to a special tax in some parts of

Kern Co. that is for each parcel whether it be a 1/4 acre parcel or a full section of 640 acres, that's a ratio of about 2500 to one, may shed some light on the Equal Protection Clause out here in the Wild West, another controversy in need of a case to bring it before this Court.

Petitioner suggested the Co. amend C017.44.060 C. from "- -on which permits to construct have been issued." to "- -on which all required permits to construct have been issued." The Co. ADDED sections to their ordinance for cargo containers and "- -ridging, leveling - -" for agriculture at Petitioner's request but a suggestion that something be CHANGED was like saying something was wrong, that was not accepted.

For the charge C017.44.060 (trailer, storage):

C017.44.060 Unauthorized use.
B. Recreational vehicles. Exception: (1) Recreational vehicles may be placed in dead storage, where allowed under the Kern County zoning ordinance, when located on private property on which there is an existing conforming use established.

There are three things necessary:

1. where allowed, 2. private property, and 3. conforming use

C019.08.220 STORAGE IN YARDS
"- -, no portion of any required front yard or side yard- -shall be used for the permanent storage- -of motor vehicles, trailers, airplanes, boats, parts of the foregoing,- -"

1. Where allowed, the items can not be stored in the "required front yard or side yard", the front yard setback for the A-1 District is Fifty-five (55) feet, the trailer was about 300 feet from the Farm property line.

2. Private property, it is, Petitioner paid on it for more than 15 years.

3. Conforming use, Farming Almonds conforms to the A-1 District.

19.14.020 PERMITTED USES
The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through 19.08.080 of this title are permitted in the A-1 District:
A. AGRICULTURAL USES
1. Growing and Harvesting Crops
—
-- Nut and fruit trees
—

The A Dist. is not necessary, neither is F Dist., there is no F Dist. for Farming, the A in A-1 stands for Agriculture, which includes Farming, this may be a hard concept for a certain Bldg. Insp. to follow.

From Petitioners Briefs to Appel. Dept.:

Farmer does not have a recommendation as to how this ordinance should be amended but from Connally "-common intelligence-" and Grayned "-standards for those who apply them-" Maybe an S.Ct. cite is necessary.

For the two charges of C019.14.020:

C019.14.020 PERMITTED USES
A. Agricultural Uses
1. Growing and Harvesting Crops
— Nut and fruit trees

The main use is Farming, nut trees, that is what almonds are.

This code No. is for permitted uses.

As pointed out on page 21 supra, the instructions to the jury was an attempt to tie this in with the prohibited use.

"Defendant is charged with - -section 17.14.20 - - a violation of section 19.14.010. - -" This should have been - - 19.14.020 - - 19.14.040.—.

From Petitioner's brief to Appel. Dept:

If a Farmer can be sent to jail on a charge he was found NOT GUILTY then under the same reasoning (or lack thereof) then he can be charged, tried, and convicted of: PERMITTED USES.

These "charges" need to be "liberally construed in favor of sufficiency" (for the Prosecuters, of course).

C019.14.040 PROHIBITED USES
All other uses not expressly permitted by sections 19.14.020 and 19.14.030 of this chapter are prohibited in the A-1 District, including final tract map residential subdivisions.

C019.14.040 is definitely vague and overbroad and repugnant to the U.S. Constitution.

The cargo containers are accessory and incidental to Farming.

Petitioner had Building Bulletin #15 written, had this amended because it had the containers taxed as real property, $10 per square foot, in violation of the Calif. Const.. These are personal property, equipment. #15 was amended to #8 to correct this error. The cargo containers if incidental and accessory to the main use require no permits from the Bldg. Dept., they were purchased for Farming, as was the Diesel Rig and trailer to haul them. The Cat D-7 Tractor and scraper were purchased by Petitioner from his Uncle in Idaho off of his Farm.

Petitioner requested cargo container be included in the ordinances, and they are:

C019.12.020 PERMITTED USES
The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through 19.08.080 of this title are permitted in the A District:
A. AGRICULTURAL USES
—
F. MISCELLANEOUS USES
-- Accessory buildings, including cargo containers, if incidental and accessory to a permitted use.
—
—

This ordinance is for the A Dist., where the minimum lot size is 20 acres. Petitioners Farm is 50 acres. This is covered in:

C019.08.110 DETERMINATION OF ACCESSORY USES AND STRUCTURES
If any question arises as whether any particular use or structure is accessory to the primary use or structure in question, it shall be resolved based on the definitions of accessory building or structure or accessory use found in chapter 19.04 of this title and the following criteria:
A. Nature and size of the primary use or structure.
B. Nature and size of the accessory use or structure.
C. Relationship of the accessory use or structure to the primary use or structure

Petitioner made a drawing of Farm, which was admitted into evidence, and a model of the cargo containers, to the same scale, 2,000 to 1. The longest dimension representing west to east is about 16 inches, north to south is about 8 inches, the model representing all of the cargo containers is smaller than the nail of your smallest finger.

The model of the cargo containers, the ordinances C019.12.020 and C019.08.110 were not allowed at the trial.

The ordinance C019.14.040 prohibits all uses not expressly permitted, and if an ordinance expressly permits a use that ordinance is not allowed as a defense.

The charge for the airplane was handled the same way, permitted under:

C019.08.220 STORAGE IN YARDS, - - storage - - trailers, airplanes, - -

this ordinance was denied as a defense.

Cleveland v. Carifo (App) 90 L.Abs. 417
186 NE2d 627
It has also been held that the burden is on the prosecution to prove that the defendant did not come within exceptions provided for in the ordinance,- -

The procedures in CO17.04.070, CO19.114.030, and CO19.114.065 were not followed.

From back in the 1960's it has been the custom and policy that the Bldg. Dept.'s "discretion", was balanced by "campaign contributions", now it involves more than discretion.

For the charge of CO17.28 (grading), the only charge carried from the Notice to Appear to trial, the charge Bldg. Insp. Dunham indicated to Petitioner "You are going to jail.", a jury of twelve found Petitioner NOT GUILTY, Petitioner spent 10 days in jail on that charge.

No permits were necessary from the Bldg. Dept. and there were no problems until "politics" got involved.

II. This case involves questions of exceptional public importance.

This Court, as far back as Judge John Marshall, has kept state laws in compliance with the U.S. Const. but the work and cost of bringing local ordininances, with a slim chance of having the cases decided by this Court, allows local entities to do almost as they please.

Citizens are bound by these ordinances the same as state laws, their constitutionallity and the way they are interpreted and administered must also be in compliance with the Constitution of the United States.

Conclusion

For the foregoing reasons, it is respectfully requested that Petitioner's petition for a writ of certiorari be granted.

Respectfully submitted,

N.L. Neilson
P.O. Box 715
Mojave, California
93502

Petitioner pro se

Date: November 15, 1991

APPENDIX

THE APPELLATE DEPARTMENT OF THE

SUPERIOR COURT

COUNTY OF KERN, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

N. L. NEILSON,

Defendant and Appellant.

No. A-1379

Trial Court No. MM012539A

OPINION

Appeal from the East Kern Municipal Court, the Honorable John Quinlen, Judge Presiding.

Counsel for Appellant, N. L. Neilson, in pro per; counsel for Respondent, Edward R. Jagels, District Attorney, by John D. Oglesby, deputy.

NATURE OF THE CASE

Appellant was convicted of two violations of Kern County Ordinance 17.44.060 (improper placement or use of a travel trailer) and two violations of

Ordinance 17.14.020 (improper placement of cargo containers/airplane on property zoned A-1) and acquitted of a violation of Ordinance 17.28.040 (grading without a permit) and a violation of Ordinance 19.14.020 (improper placement of grading equipment on property zoned A-1), following a jury trial.

STATEMENTS OF FACTS

Appelant owned fifty acres of real property, zoned A-1. On September 17, 1990, an inspection of the property was conducted by William Thresher, in his capacity as a building inspector and code enforcement officer for the County of Kern. He found, among other things, two travel trailers, several large cargo containers (one of which contained a Jaguar XKE) and a airplane. Appellant did not have a permit for any of these items.

ISSUE PRESENTED

The main issue argued by Appellant is the constitutionality of ordinances.

DISCUSSION

Appellant contends that the ordinances are unconstitutional due to vagueness. He cites a number of authorities standing for the general principle that laws that do not clearly define prohibited conduct cannot be enforced. We have no quarrel with those authorities, but find that they are not applicable to the present case. Furthermore, given the nature of the arguments advanced by Appellant, i.e., he is prepared to fasten a plow to the XKE and use it for farming if he decides to do so, we are not inclined to labor through his arguments, the ordinances and the evidence in this opinion.

CONCLUSION

The judgment is affirmed and the case remanded.

Dated: July 31, 1991.

STUART, J.

WE CONCUR: BACA, P.J.

RANDALL, J.

JMS:js

EAST KERN MUNICIPAL COURT

STATE OF CALIFORNIA

COUNTY OF KERN

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

N. L. NEILSON,

Defendant and Appellant.

Trial Court No. MMO12539A

The court docket has:

1	CO 17.44.060	FOUND GUILTY
2	CO 17.44.060	FOUND GUILTY
3	CO 17.28.040	ACQUITTED
4	CO 19.14.020	FOUND GUILTY
5	CO 19.14.020	FOUND GUILTY
6	CO 19.14.020	ACQUITTED

Petitioner has no formal Judgment Document and has not seen one in the court file except the ORDER GRANTING PROBATION AND TERMS OF PROBATION, a form with blanks filled in, the filled in parts are as follows underlined:

ORDER GRANTING PROBATION

AND TERMS OF PROBATION

DEFENDANTS NAME Norman Lee Neilson

CASE NO MMO12539A

DATE 1-10-90 (should be 91)

JUDGE: Quinlen CHARGES CO 17.28

SECTION 1: GENERAL

TCORG X ORIGINAL TERMS AND CONDITIONS OF PROBATION

TCPRG X PROBATION GRANTED AS TO COUNT 1

TCPG X IMPOSITION OF SENTENCE SUSPENDED AND DEFENDANT PLACED ON PROBATION FOR A PERIOD OF 3 YRS; 0 MOS; 0 DAYS. TYPE OF PROBATION: X B. COURT

TCRFV X REFRAIN FROM FURTHER VIOLATIONS OF THE LAW

SECTION 3: JAIL TIME AS TO COUNT(S)

TCDIJ X DEFENDANT TO SERVE 15 DAYS IN CUSTODY AS TO COUNT 1.

SECTION 4: FINES AS TO COUNT(S)

TCINS X DEFENDANT ASSESSED ADDITIONAL ACCOUNTS RECEIVABLE FEE OF $ 30.00. TOTAL FINES AND ASSESSMENT(S) OF $1255.00 TO BE

PAID IN INSTALLMENTS OF $1255.00 ON 4-10-91

- -.

SECTION 8: RESTITUTION AS TO COUNT(S)

TCCR X DEFENDANT TO MAKE RESTITUTION FOR DAMAGES AS TO COUNT(S) 1.

X B. IN THE AMOUNT OF $330.00

AND IN A MANNER TO BE DETERMINED BY THE PROBATION OFFICER AND ORDERED BY THE COURT. DEFENDANT ADVISED RE:CERVANTEZ.

TCRP X DEFENDANT ORDERED TO REPORT TO PROBATION OFFICER X WITHIN 5 DAYS OF RELEASE FROM CUSTODY.

Pay Building Department within 6 months. 90 days to comply with Building Department Codes.

I HAVE READ AND UNDERSTAND THE TERMS OF PROBATION AND ORDER SET FORTH ABOVE AND UNDERSTAND THE CONSEQUENCES OF A VIOLATION OF PROBATION. I HEREBY ACKNOWLEDGE RECEIPT OF A COPY THEREOF, THIS 10 DAY OF JAN 1991.

X P.O. Box 715 X N.L. Neilson

X Mojave, Ca 93502 D.O.B. 3-20-44

17.44.060 Unauthorized Use

Outside a mobilehome park, travel-trailer park, temporary trailer park, recreational trailer park, incidental camping area or tent camp on land in his possession within the unincorporated area of the County of Kern, it is unlawful for any person to place or allow to be placed, or use, or occupy or knowingly permit to be used for occupancy:

A. Dependant mobilehomes.

Exception: Dependant mobilehomes may be placed in dead storage, where allowed under the Kern County zoning ordinance, when located on private property on which there is an existing conforming use established per provisions of this chapter.

B. Recreational vehicles.

Exception: (1)Recreational vehicles may be placed in dead storage, where allowed under the Kern County zoning ordinance, when located on private property on which

there is an existing conforming use established. (2)Recreational vehicles may be allowed for private recreational use when approved by the board of zoning adjustment or the board of supervisors.

C. A mobilehome or recreational vehicle used for industrial, professional or commercial purposes or occupancy.

Exception: Mobilehomes or recreational vehicles may be granted temporary approval by the building official for construction purposes when located on construction sites on which permits to construct have been issued. Such approval shall be terminated upon completion of construction and the vehicles removed.

(There are also D. thru J.)

19.14.020 PERMITTED USES

The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through 19.08.080 of this title are permitted in the A-1 District:

A. AGRICULTURAL USES

1. Growing and Harvesting Crops

-- Berry crops

-- Bush crops

-- Christmas trees

-- Field crops, dryland

-- Field crops, irrigated

-- Flowers - - -, wholesale only

-- Greenhouse, wholesale only

-- Nursery, plant, wholesale only

-- Nut and fruit trees

-- Timber

-- Vegetables

-- Vine crops

2. Breeding and Raising Animals

-- (there are ten listings)

B. RESIDENTIAL USES

1. Manufactured home, mobilehome, or recreational vehicle, temporary, during construction of a single-family home pursuant to Section 19.14.130 of this chapter.

2. Manufactured home, pursuant to Section 19.14.130G of this chapter.

3. Residential accessory structures.

4. Residential facility, serving six (6) or fewer persons.

5. Single-family dwelling, with a width greater than sixteen (16) feet.

(There are also C. thru F.)

C017.04.070 Enforcemant authority.

A. The building official shall interpret, administer and enforce this title excepting the Kern County code, and for such purposes, he may appoint deputies and otherwise deligate the authority herein provided.

B. Any authority of the building official involving discretion or interpretation of this title shall be exercised in a reasonable manner.

C. Any decision of the building official relating to interpretation of this title, or to alternate materials or method of construction as mentioned in Section 17.04.080 of this chapter, or to tests as proof of compliance or equivelency as mentioned in Section 17.04.090, or to modifications as mentioned in Section 17.04.100, shall be subject to appeal to the board of building appeals.

C017.08.200 Permits required.

(new code No. for C017.28 see below)

C017.28 GRADING CODE

C017.28.040 Permits required

A. No person shall do any grading or cause the same to be done without first having obtained a grading permit from the Building Official except as specified in subsections (b) of this section.

B. Exempted Work:

10. Accepted agricultural activities, including routine mowing, plowing, ditching, harrowing, ridging, leveling, and other operations necessary to prepare a field or crop for production.

C017.44.060 Unauthorized Use

(see A8 supra)

19.08.110 DETERMINATION OF ACCESSORY USES AND STRUCTURES

If any question arises as whether any particular use or structure is accessory to the primary use or structure in question, it shall be resolved based on the definitions of accessory building or structure or accessory use found in chapter 19.04 of this title and the following criteria:

A. Nature and size of the primary use or structure.

B. Nature and size of the accessory use or structure.

C. Relationship of the accessory use or structure to the primary use or structure

19.08.220 STORAGE IN YARDS

Except as otherwise provided in Subsection (G) of Section 19.82.090 of this title, no portion of any required front yard or side yard on the street side of a corner lot

shall be used for the permanant storage, defined as any forty-eight hour period, of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, except that one (1) recreational vehicle designed for human occupancy or one (1) boat may be so stored, provided that the recreational vehicle or boat is fully operational and is currently licensed and/or registered. Additionally, no such areas shall be utilized for the storage of scrap metals or other scrap materials, machinery, appliances, furniture, or equipment or parts thereof, except for building materials and equipment for the use on the premises stored thereon during the time a valid permit is in effect for construction on the premises.

CO19.12.020 PERMITTED USES

The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through

19.08.080 of this title are permitted in the A District:

A. AGRICULTURAL USES

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F. MISCELLANEOUS USES

-- Accessory buildings, including cargo containers, if incidental and accessory to a permitted use.

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CO19.14.020 PERMITTED USES

(see A10 supra)

19.14.040 PROHIBITED USES

All other uses not expressly permitted by sections 19.14.020 and 19.14.030 of this chapter are prohibited in the A-1 District, including final tract map residential subdivisions.

19.114.030 INSPECTION

The Building Official may upon the

presentation of proper credentials to the occupant or owner enter any premises, building, or structure at any reasonable time for the purpose of investigating and inspecting said premises, building, or structure to determine whether the same are being used in compliance with the provisins of this title. If admission or entry is refused, the Building Official may apply to the District Attorney to obtain an inspection warrant.

19.114.065 NOTICE OF ZONING VIOLATIONS

Whenever the Director of Planning and Developement Services or his designee has knowledge of a violation of Title 19 of this code, he may cause a notice of intent to record a notice of violation to be mailed by certified mail to the then current owner of record of the property. The notice shall state that within thirty (30) days of the date of the notice, the owner may request a meeting with the

Director of the Department of Planning and Developement Services or his designee to present evidence that a violation does not exist. The notice shall further describe the property and violation in detail. (There are three more paragraphs.)

California Constitution Art. 1 Sect. 1

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

DEPARTMENT OF
PLANNING AND DEVELOPEMENT SERVICES
A GUIDE TO BUILDING
CONSTRUCTION AND
PERMIT PROCEDURES
or "GUIDE"

(10) MAY MOBILEHOMES BE USED DURING CONSTRUCTION OF A HOUSE

It is unlawful to install a mobilehome for use as a temporary dwelling during construction of a residence without first obtaining the necessary zoning clearance and permits. No such mobilehome permit may be issued until all required zoning approval and permits for the main use (structure) on the site have been obtained. Permits for the residence and installation of the mobilehome shall be obtained simultaneously. Recreational vehicles and travel trailers may also be utilized for temporary housing with no utilities tied to unit, but no additional permit will be required by Building Inspection. For more information contact your nearest County Inspection Division office.